



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,453	12/08/2003	Robert J. Ferrand	8266-1170	2297

7590 05/18/2004

Intellectual Property Group
Bose McKinney & Evans LLP
2700 First Indiana Plaza
135 North Pennsylvania Street
Indianapolis, IN 46204

EXAMINER

TRETTEL, MICHAEL

ART UNIT	PAPER NUMBER
----------	--------------

3673

DATE MAILED: 05/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/730,453

Applicant(s)

FERRAND ET AL.

Examiner

Michael Trettel

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 28 and 30 is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 4-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>03/01/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

The amendment filed on April 4, 2004 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: there is no support in the originally filed disclosure for the assertion that the claimed controller is configured to slide along or move along either the first or second barrier.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1 to 9, 11, 13, 24, and 26 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. As mentioned earlier, there is no support in the originally filed disclosure for the claimed subject matter stating that the controller is configured to slide along or move along either the first or second barrier.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4-9, 16-22, and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Jenkins (4,484,367). Jenkins shows a nurse call apparatus that includes a controller in the form of nurse call device 42 supported upon a bed side guard 40 by a textile holder 10. The holder 10 comprises a flexible sheet 12 that is of sufficient length to wrap around the side guard 40 and includes overlapped ends 18, 20 that are removably attached to one another by hook and loop fastening strips 35, 36. The side guard includes spaced upper and lower rails that create a recess or opening that the holder 10 bridges across, since the holder is flexible it forms concave interior surfaces that engage the convex surfaces formed by the rails of the side guard. A pocket 26 is placed on the interior surface of the sheet 12 to receive and hold the nurse call device. Note that the device is inherently slidable or can be moved along the length of the side guard, as disclosed in column 3, lines 44 to 48 an adhesive can be applied to the rails of the side guard to prevent movement of the holder relative to the rails. The adhesive though is optional in use, and does not form a limitation upon movement of the holder along the side guard. The pocket 26 can be considered to form a retainer, with the body of the nurse call device 42 forming a housing.

Claim Rejections - 35 USC § 103

Art Unit: 3673

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10-15 and 23-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jenkins ((4,484,367)). The Jenkins patent shows only a single side guard being used along one side of the bed. It is very well known in the art to use pairs of side guards along both sides of a hospital bed for prevention of movement of either side of the bed, and it certainly would have been obvious to the skilled artisan to have used the Jenkins nurse call apparatus upon any one of either side guards used upon a hospital bed that includes an opposed pair of side guards.

Allowable Subject Matter

Claims 28 and 30 are allowed.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mitchell, Johnston et al, Packard et al, Springer, and Traynor show side guard mounted bed controls and support caddies which are of general interest.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Trettel whose telephone number is 703-308-0416. The

Art Unit: 3673

examiner can normally be reached on Monday, Tuesday, Thursday, or Friday from 7.30 am to 5.00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford, can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.


Michael Trettel
Primary Examiner
Art Unit 3673